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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,898	08/01/2003	Philip Kwan	FOUND-0057 (034103-048)	9803
49680 7590 04/28/2009 FOUNDRY-NIXON PEABODY LLP 200 Page Mill Road Palo Alto, CA 94306				
EXAMINER				
CHAN, SAI MING				
ART UNIT		PAPER NUMBER		
2416				
MAIL DATE		DELIVERY MODE		
04/28/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/631,898

Applicant(s)

KWAN, PHILIP

Examiner

SAI-MING CHAN

Art Unit

2416

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-12,15-21 and 24-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-12,15-21 and 24-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Specification Objections

The disclosure is objected to because of the following informalities:

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The "program storage device" of claims 30 and 40 lacks antecedent basis in the specification.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 2, 5-10 and 32 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to particular machine, or (2) transform underlying subject matter (such as an article or material) to a different state or thing. See page 10 of *In Re Bilski* 88 USPQ2d 1385. The instant claims are neither positively tied to a particular machine that accomplishes

the claimed method steps nor transform underlying subject matter, and therefore do not qualify as a statutory process. The method of claim 1, including steps of sensing a user and determining access state, is broad enough that the claim could be completely performed mentally, verbally or without a machine nor is any transformation apparent. Claims 2, 5-10 are rejected because of their dependence, directly or indirectly, on claim 1. Claim 32 is rejected for the same reason as set forth in claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(c), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 2, 5-10 and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Meier et al. (U.S. Patent Publication # 20050185626)**, in view of **Hu et al. (U.S. Patent Publication #20030236898)**.

Consider **claims 1 and 30**, Meier et al. clearly disclose and show a method comprising:

sensing a user device (fig. 3 (302), paragraph 0032 (WSTA attempting to gain access to AP)) coupled to a port of a network access device (paragraph 0032 (attempting to gain access to AP)); and

placing the port into a semi-authorized access state (paragraph 0022 (default guest set)) the semi-authorized access state providing the user device with limits access (paragraph 0022 (restricted access)).

However, Meier et al. do not specifically disclose determining if said user device supports a user authentication protocol.

In the same field of endeavor, Hu et al. clearly show determining if said user device supports a user authentication protocol (fig. 1 (1 and 2), paragraph 0023 (support authentication));

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of invention to demonstrate a method of user authentication, as taught by Meier, and show determining if said user device supports a user authentication protocol, as taught by Hu, so that proper access can be granted according to authentication.

Consider **claim 31**, Meier et al. clearly disclose and show an apparatus comprising:

means (paragraph 0010 (means)) for sensing a user device (fig. 3 (302), paragraph 0032 (AP receives a message from WSTA that it attempts to gain access to AP)) coupled to a port of a network access device (paragraph 0032 (attempting to gain access to AP)); and

means (paragraph 0010 (means)) for placing the port into a semi-authorized access state (paragraph 0022 (default guest set)) if it is determined that the user device does not support the user authentication protocol (paragraph 0022 (unauthorized guest WSTAs)), the semi-authorized access state providing the user device with limited access (paragraph 0022 (restricted access)).

However, Meier et al. do not specifically disclose determining if said user device supports a user authentication protocol.

In the same field of endeavor, Hu et al. clearly show means for determining if said user device supports a user authentication protocol (fig. 1 (1 and 2), paragraph 0023 (support authentication));

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of invention to demonstrate a method of user authentication, as taught by Meier, and show determining if said user device supports a user authentication protocol, as taught by Hu, so that proper access can be granted according to authentication.

Consider **claim 2**, and as applied to **claim 1** above, Meier et al., clearly disclose and show a method, wherein said pre-configured network comprises a Voice over Internet Protocol (VoIP) network (paragraph 0003 (Voice over IP)).

Consider **claim 5**, and as applied to **claim 1** above, Meier et al., clearly disclose and show a method, wherein the placing comprises selectively placing said port into one of a plurality of semi-authorized access states (paragraph 0022 (default guest set)).

Consider **claim 6**, and as applied to **claim 5** above, Meier et al., clearly disclose and show a method, wherein the placing comprises:

determining a type of the user device (paragraph 0008 (type of service for the wireless station)) ; and

selectively placing said port into one of a plurality of semi-authorized access states (paragraph 0022 (default guest set)) based on the type of user device (paragraph 0009 (identifies a type of service for the station)).

Consider **claim 7**, and as applied to **claim 6** above, Meier et al., clearly disclose and show a method, wherein selectively placing comprises selectively placing the port into a semi-authorized access state (paragraph 0022 (default guest set)) that limits access by the user device to a network (paragraph 0022 (restricted access)) comprising a Voice over Internet Protocol network (paragraph 0003 (Voice over IP)).

Consider **claim 8**, and as applied to **claim 6** above, Meier et al., clearly disclose and show a method, wherein selectively placing comprises selectively placing the port into a semi-authorized access state (paragraph 0022 (default guest set)) that limits access by said user device (paragraph 0022 (restricted access)) to a network comprising the Internet (abstract (IP)) if said user device is a portable computing device (fig. 2 (208)).

Consider **claim 9**, and as applied to **claim 1** above, Meier et al., clearly disclose and show a method, wherein said user authentication protocol is IEEE 802.1x (paragraph 0029 (802.11)).

Consider **claim 10**, and as applied to **claim 1** above, Meier et al., clearly disclose and show a method, wherein said network access device comprises a network switch (paragraph 95, lines 1-8 (network switches)).

Claims 32-35 and 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hu et al. (U.S. Patent Publication #20030236898)**, in view of **Meier et al. (U.S. Patent Publication # 20050185626)**.

Consider **claims 32** and **40**, Hu et al. clearly disclose a method comprising:
sensing a user device coupled to a port of a network access device (fig. 1 (1 and 2), paragraph 0023); and
determined that the user device is unable to communicate using a particular user authentication protocol (fig. 1 (3 ->N), paragraph 0023).

However, Hu et al. do not specifically disclose limited access.

In the same field of endeavor, Meier et al. clearly show allowing the user device limited access to a network (paragraph 0022 (restricted access)) .

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of invention to demonstrate a method of user authentication, as taught by Hu, and show limited access, as taught by Meier, so that proper access can be granted according to authentication.

Consider **claim 33**, and as applied to **claim 32** above, Meier et al. clearly disclose and show performing further user authentication in accordance with the user authentication protocol if it is determined that the user device is able to communicate using the user authentication protocol (paragraph 0021 (pass any authentication criteria defined for its SSID)).

Consider **claim 34**, and as applied to **claim 32** above, it is being rejected for the same reason as set forth in claim 32.

Consider **claim 35**, and as applied to **claims 34** above, it is being rejected for the reason as set forth in **claim 2**.

Consider **claim 41**, it is being rejected for the same reason as set forth in **claim 31**.

Claims **11, 12, 15-19, 20-21, 24-29 and 36-39** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Roose et al. (U.S. Patent Publication # 20030217151)**, in view **Hu et al. (U.S. Patent Publication #20030236898)**, and in view of **Meier et al. (U.S. Patent Publication # 20050185626)**.

Consider **claim 11**, Roose et al., clearly disclose and show a network access device comprising:

- a plurality of input ports (fig.8 (106a & i), paragraph 27);
- a plurality of output ports (fig.8 (106g & f), paragraph 27);

a switching fabric (fig. 1(136 – switching device), paragraph 27) for routing data received on said plurality of input ports (fig.8 (106a & i), paragraph 27) to at least one of said plurality of output ports (fig.8 (106g & f), paragraph 27);

However, Reese et al. do not specifically disclose determining if said user device supports a user authentication protocol.

In the same field of endeavor, Hu et al. clearly show control logic adapted to determine whether a user device coupled to one of the plurality of input ports supports a user authentication protocol used by a host network (fig. 1 (1 and 2), paragraph 0023 (support authentication)), and if the authentication protocol is not supported (fig. 1 (3 - >N), paragraph 0023).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of invention to demonstrate a method of user authentication, as taught by Meier, and show determining if said user device supports a user authentication protocol, as taught by Hu, so that proper access can be granted according to authentication.

However, Hu et al. do not specifically disclose limited access.

In the same field of endeavor, Meier et al. clearly show place the one of the input ports in a semi-authorized access state with limited network access (paragraph 0022 (restricted access)) .

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of invention to demonstrate a method of user authentication, as taught by Hu, and show limited access, as taught by Meier, so that proper access can be granted according to authentication.

Consider **claim 36**, it is being rejected for the reason as set forth in **claim 11**.

Consider **claim 20**, Reese et al., clearly disclose a network system, comprising:
a host network that uses a user authentication protocol (paragraph 100 (802.1x to authenticate user for network access control);

a network access device (fig. 8 (114g & f), paragraph 136 (entry device))
communicatively coupled to said host network; and

a user device (fig. 2 (step 210), paragraph 69, lines 7-10) coupled to a port (fig.8 (106a & i), paragraph 27) of said network access device;

However, Reese et al. do not specifically disclose determining if said user device supports a user authentication protocol.

In the same field of endeavor, Hu et al. clearly shows determining whether a user device coupled to one of the plurality of input ports supports a user authentication protocol used by a host network (fig. 1 (1 and 2), paragraph 0023 (support authentication)), and if the authentication protocol is not supported (fig. 1 (3 ->N), paragraph 0023).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of invention to demonstrate a method of user authentication, as taught by Meier, and show determining if said user device supports a user authentication protocol, as taught by Hu, so that proper access can be granted according to authentication.

However, Hu et al. do not specifically disclose limited access.

In the same field of endeavor, Meier et al. clearly show place the one of the input ports in a semi-authorized access state with limited network access (paragraph 0022 (restricted access)) .

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of invention to demonstrate a method of user authentication, as taught by Hu, and show limited access, as taught by Meier, so that proper access can be granted according to authentication.

Consider **claims 12 and 21**, and **as applied to claim 11 and 20 above**, respectively, they are being rejected for the reason as set forth in **claim 2**.

Consider **claims 15 and 24**, and **as applied to claim 11 and 20 above**, respectively, they are being rejected for the reason as set forth in **claim 5**.

Consider **claims 16 and 25**, and **as applied to claim 15 and 24 above**, respectively, they are being rejected for the reason as set forth in **claim 6**.

Consider **claims 17 and 26**, and **as applied to claim 16 and 25 above**, respectively, they are being rejected for the reason as set forth in **claim 7**.

Consider **claims 18 and 27**, and **as applied to claim 16 and 25 above**, respectively, they are being rejected for the reason as set forth in **claim 8**.

Consider **claims 19 and 28**, and **as applied to claim 16 and 25 above**, respectively, they are being rejected for the reason as set forth in **claim 9**.

Consider **claim 29**, and as applied to **claim 20** above, it is being rejected for the reason as set forth in **claim 9**.

Consider **claim 37**, and as applied to **claim 36** above, it is being rejected for the reason as set forth in **claim 33**.

Consider **claim 38**, and as applied to **claim 36** above, it is being rejected for the reason as set forth in **claim 1**.

Consider **claim 39**, and as applied to **claim 36** above, respectively, it is being rejected for the reason as set forth in **claim 2**.

Response to Amendment

Applicant's arguments filed on 2/4/2009, with respect to claims 1, 11, 20, 30-32 and 40-41, on pages 10-19 of the remarks, have been carefully considered.

In the present application, Applicants basically argue, that Roese et al. do not teach or suggest "determining if the user device supports a user authentication protocol" and "determine if user device does not support the user authentication protocol". The Examiner would like to point out that the language of claims 1, 11, 30 and 36 merely states that "determining if the user device supports a user authentication protocol" and "determine if user device does not support the user authentication protocol". The Examiner has to interpret it in the broadest sense.

The Examiner has modified the response with a new reference which provides "determining if the user device supports a user authentication protocol" and "determine if user device does not support the user authentication protocol". See the above

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rejections of claims 1, 11, 20, 30-32 and 40-41, for the relevant interpretation and citations found in Hu et al., disclosing the limitation.

Conclusion

Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Sai-Ming Chan whose telephone number is (571) 270-1769. The Examiner can normally be reached on Monday-Thursday from 6:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Seema Rao can be reached on (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

/Sai-Ming Chan/

Examiner, Art Unit 2416

April 15, 2009

/Kevin C. Harper/

Primary Examiner, Art Unit 2416